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ADMINISTRATIVE AND FINANCIAL MATTERS

Late payment of contributions: response options

Note by the Executive Secretary

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I. INTRODUCTION

1. Expressing concern at the continuing trend towards late payment of contributions, some still outstanding from 1996 and 1997, the Conference of the Parties (COP), at its fifth session, requested the Executive Secretary to present, through the Subsidiary Body for Implementation (SBI) at its twelfth session (decision 21/CP.5), possible options to respond to the situation of late payment of contributions for consideration at its sixth session (FCCC/CP/1999/6/Add.1).

2. This document, which has been prepared in response to that request, consists of two main sections:

(a) The first section briefly explains the problems and inconveniences that could be faced by the Convention as a result of late payments to the core budget. Some of the possible causes of late payment of contributions are also listed in this section;

(b) The second section gives some examples of how the United Nations and other international organizations have approached the issue, explains the measures taken so far by UNFCCC and suggests additional options the SBI may wish to consider as a basis for recommendations to COP 6.

II. THE PROBLEM AND ITS CAUSES

3. The secretariat is expected to implement an approved programme of work, filling posts and entering into financial commitments based on the approved budget, in anticipation that the corresponding contributions will be paid in time. According to the United Nations procedures for the establishment and management of trust funds and the financial procedures of the Convention, commitments by the secretariat can only be made on the basis of paid contributions. However, although the financial procedures of the Convention specify that contributions to the core budget are due by 1 January of each year, very few contributions have been received by the due date.

4. Figures 1 and 2 illustrate trends of paid contributions and actual expenditures in comparison to the planned expenditures in 1998 and 1999. If contributions had been made in time, expenditures could have been made in accordance with the approved budget. However, in an attempt to keep the level of expenditures below that of paid contributions, activities had to be delayed. Moreover, the narrow gap between paid contributions and actual expenditures signifies that there was no time for financial planning, thus leading to undue pressure in budgetary procedures before expenditures are incurred.

Figure 1. 1998 cumulative contributions and expenditures
(Millions of US dollars)

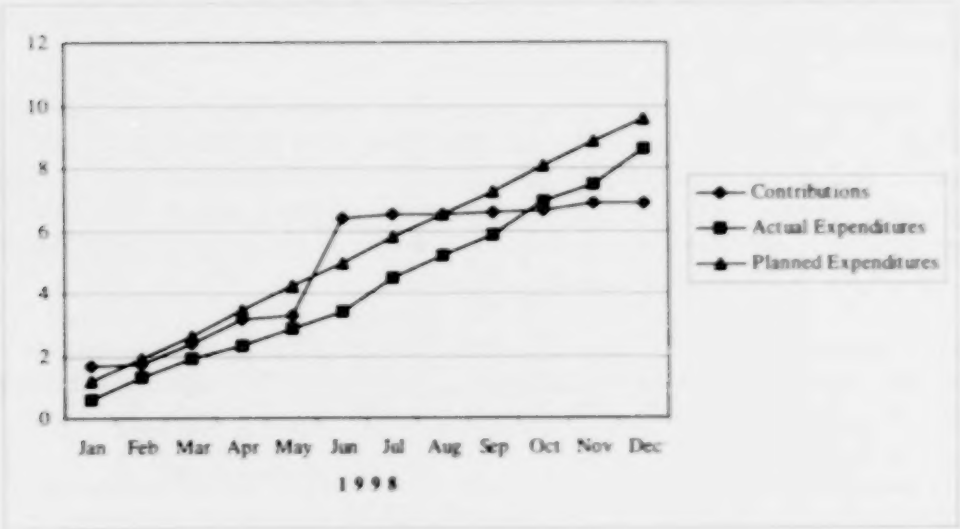
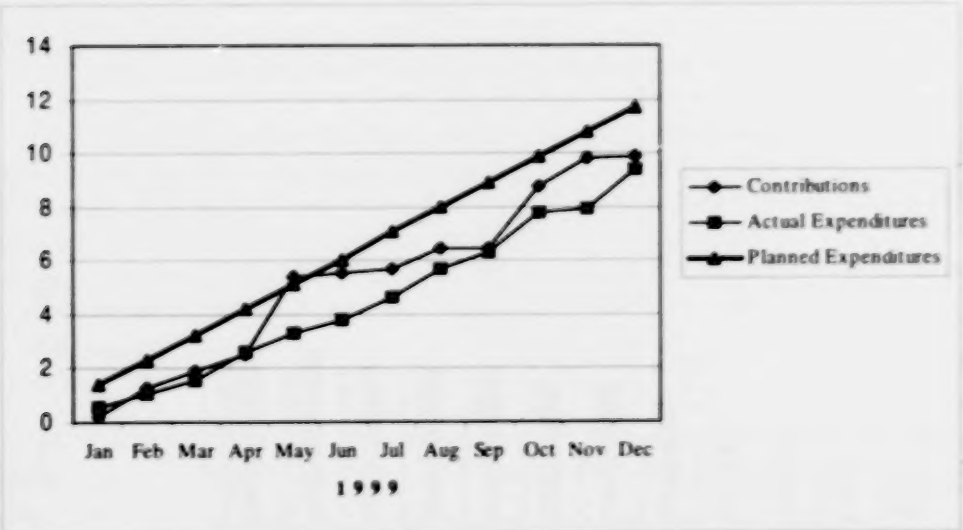


Figure 2. 1999 cumulative contributions and expenditures
(Millions of US dollars)



5. For example, a substantial amount of the contributions for 1998 was received after the accounts for that year had been closed. Only 78 per cent of the indicative contributions for that year were received by December, while the expenditures over the same period amounted to 86 per cent of the approved budget. In 1999, 55 per cent of the indicative contributions were received by 30 June, and 92 per cent by 31 December of the same year.

6. The number of Parties with outstanding contributions remains very high. In 1998, out of the total number of 174 Parties, 60 Parties paid their contributions by 30 June and only 74 Parties by 31 December, leaving 100 Parties which had not paid their contributions within the 12 month period following the due date. Of the top 20 contributors, one paid by 1 January 1998. Four contributions were received during the first quarter, followed by seven during the second quarter. Six major contributors made their 1998 contributions in 1999.

7. In 1999, although the total income increased, the number of Parties which made their contributions remained low. By the end of the year, 112 Parties had not made their contributions for that year. Of the top 20 contributors, again only one paid by 1 January 1999; three others paid their contributions during the first quarter, followed by three in the next quarter. By 31 December, three of the major contributors had their 1999 contributions outstanding (see figures 3 and 4 for a comparison of the percentages of Parties having paid and indicative contributions received by the end of each month).

Figure 3. Cumulative percentage of paying Parties, by month, in 1998 and 1999

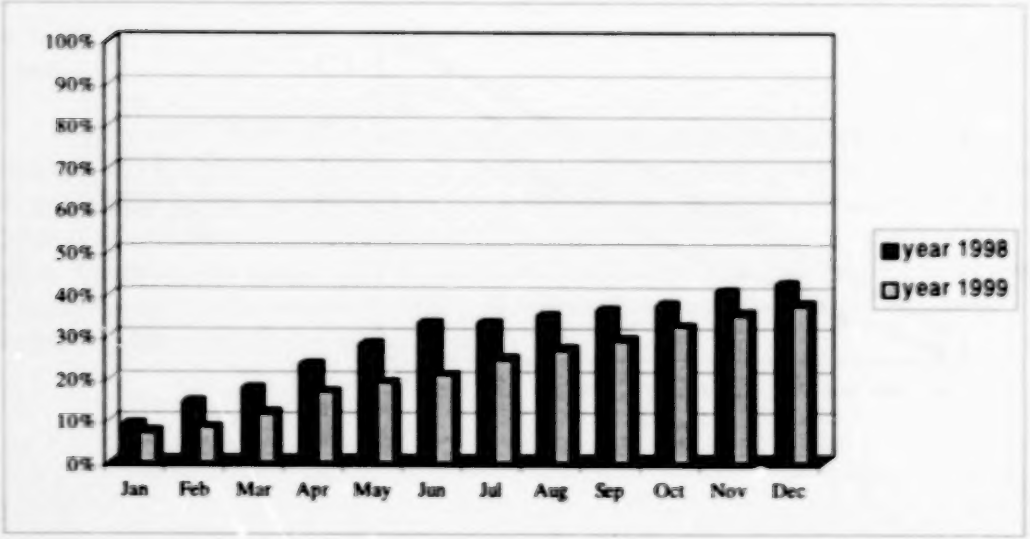


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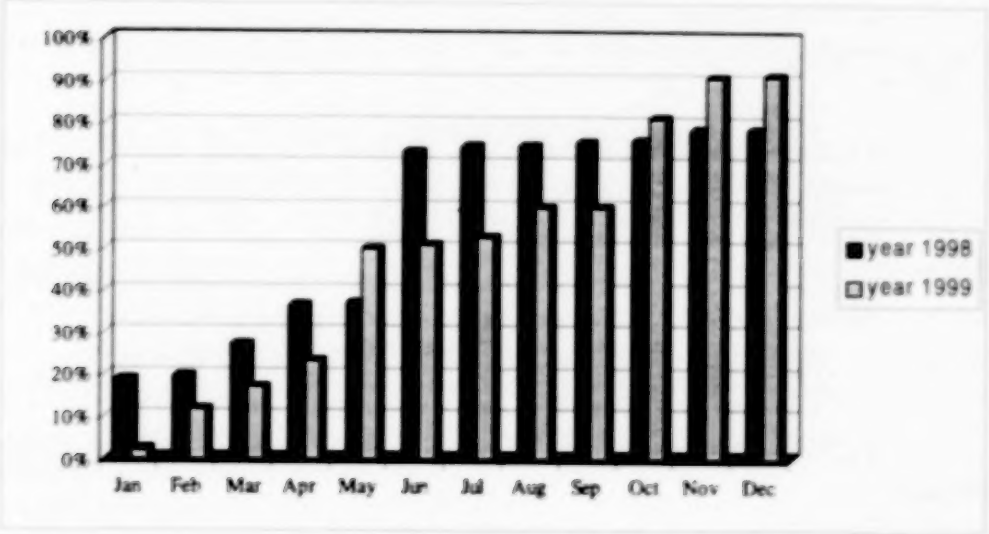
Figure 4. Cumulative percentage of contributions received, by month, in 1998 and 1999



8. The shortage of cash that could have been caused by the late payments was avoided because the secretariat was authorized to use the working capital reserve and the carry-over balances from previous financial periods. However, since the COP has also decided (decision 20/CP.5) to use the carry-overs to offset the difference of over $3.7 million between the approved expenditures ($27,888,200) and the expected contributions ($24,186,000) in the current biennium, the carry-over balance and the working capital reserve may no longer be sufficient to cover initial expenditures unless contributions are paid in a timely manner.

9. Although the majority of the Parties which fail to make their contributions during the year in which they are due are developing countries, it is not unusual for major contributions from Annex II Parties to be delayed until the end of the year, or even the next year. On the other hand, a number of least developed countries and small island States have made their payments during the current year.[1] This trend does not support the argument that financial constraints are the only reason for outstanding contributions.

10. Other reasons for delay appear to be:

(a) Lengthy internal approval procedures and administrative delays. In some cases, contributions to international organizations may have to undergo elaborate approval processes, including clearance by the parliament;

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[1] See FCCC/SBI/2000/INF.5.

(b) The separation of responsibility for UNFCCC participation from that for payment of contributions. For example, while officials of the Ministry the Environment may be responsible for participation in the process, the responsibility for contributions may be that of the Ministry of Finance or the Ministry of Foreign Affairs. COP budget decisions and consequential notifications of contributions may not filter through from the focal points to the department that issues payments;

(c) Lack of clear remittance instructions. Contributions intended for UNFCCC have been directed to other United Nations organizations or have been kept in suspense accounts owing to lack of clarity in the credit advices received from the bank;

(d) Change of indicative contributions as a result of budget revision or a decision taken after the initial notification. For example, the initial notifications of indicative contributions for the first years of the biennium of 1998-1999 and 2000-2001 included contingencies for conference services, pending the General Assembly resolution on this issue;

(e) Directing notifications by the secretariat to a ministry not responsible for payment of contributions;

(f) Payment of deposits into the wrong account after they were received at the United Nations.

III. OPTIONS

A. Approach in the United Nations system

11. It may be useful to consider the approach taken by organizations in the United Nations system, although they may have different financial procedures.

12. Article 19 of the Charter of the United Nations stipulates that:

> "A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member."

13. The International Telecommunication Union (ITU) has in place two types of penalties on its members which do not make timely payment of their assessed contributions. According to Article 169 of its constitution,

> "a Member which is in arrears in its payments to the Union shall lose its right to vote ... as long as the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two years."

In addition, the ITU financial regulations specify that late payment of trust funds will be charged interest of at least 6 per cent per annum. (Article 6, paragraph 3 (b) of ITU financial regulations).

B. Practices of other convention bodies

14. The secretariat considered the experience of several international conventions administered within the United Nations system,[2] but none of them has conducted a comprehensive study on this matter or devised a formal response to parties whose contributions are overdue.

15. Considering that contributions are not "assessed", the conventions have so far preferred to use political persuasion and appeals, rather than introducing penalties, so as to avoid discouraging Parties from fulfilling their substantive commitments to the successful implementation of the respective conventions.

16. Other conventions, which do not have an institutional linkage with the United Nations, have introduced more severe penalties. For example, statutes and regulations of the International Union for the Conservation of Nature and Natural Resources (IUCN) stipulate that "the rights of a member in connection with elections, voting and motions shall be suspended when the dues of that member are one year in arrears". The International Whaling Commission reported that a system of progressive sanctions such as increased interest charges on outstanding balances, not supplying documentation and the loss of voting rights has saved the Commission from financial crisis.[3]

C. Responses by the UNFCCC

17. UNFCCC has already taken certain initiatives to encourage Parties to make their contributions in a timely manner. These measures include:

(a) Ensuring that notifications of indicative contributions are dispatched by 30 September of the year preceding that in which the contributions are due;

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[2] Convention on International Trade in Endangered Species of Wild Fauna and Flora, Convention on the Conservation of Migratory Species of Wild Animals, Secretariat of the Basel Convention, United Nations Convention to Combat Desertification, Convention on Biological Diversity, Montreal Protocol on Substances that Deplete the Ozone Layer.

[3] Report prepared by IUCN Environmental Law Centre, March 1997.

(b) Sending letters to the top 20 contributors urging timely payment if contributions are not made within the first half of each year;

(c) Issuing the "status of contributions" document, which lists Parties that have and have not paid their contributions, at every session of the subsidiary bodies and the Conference of the Parties, thus prompting delegates to take remedial action;

(d) Withdrawing financial support from those Parties which are not least-developed countries or small island developing countries, which would normally be eligible for financial support to participate in the meetings of the Conference of the Parties and its subsidiary bodies and which have been in arrears for more than one year.

18. The above-mentioned measures have produced positive results but have not proved sufficient.

D. Additional options

19. The SBI may therefore wish to consider the following additional options with a view to making a recommendation to COP 6:

(a) The COP may decide that Parties with arrears of one year or more would be declared ineligible:

(i) to host a session of the Conference of the Parties or its subsidiary bodies;

(ii) for funding to attend inter-sessional workshops and other informal meetings;

(iii) for membership of the Bureau of the COP or of its subsidiary bodies;

(iv) for invitation to inter-sessional workshops and other informal meetings;

(b) The COP may wish to request the secretariat to explore the possibility of charging interest on outstanding contributions, and to make a recommendation to the COP, through the SBI, on possible options on the level of interest and the level of arears subject to such charges.

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